

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Attorney Docket No.: **Actaris-6 (74.0241)**

Applicant: **Christophe LELEU**

Serial No.: **09/914,512**

PCT No.: **PCT/FR00/00484**

Int. Filing Date: **February 25, 2000**

Priority Date March 3, 1999

Title: **A METHOD AND APPARATUS FOR MEASURING THE PROPAGATION
TIME OF A SIGNAL, IN PARTICULAR AN ULTRASOUND SIGNAL**

PCT Legal Examiner: **Rafael Bacares**

Group Art Unit: **Not yet assigned**

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

S I R:

**Second Renewed Petition Under 37 CFR 1.47(b)
and
Change of Correspondence Address**

I. Introduction

This response is in reply to the Decision on Renewed Petition Under 37 CFR 1.47(b) which was mailed Feb. 13, 2003. In a telephone call to PCT Legal Examiner Rafael Bacares, the Examiner indicated that two supplemental submissions which were submitted by Applicant's representative had not be entered into the file or considered in regard to the Renewed Petition.

The Decision on the Renewed Petition failed to consider the two supplemental submissions which, if considered, should have resulted in the granting of the Renewed Petition or its dismissal as being moot in view of a submission of a Declaration signed by the previously non-signing inventor. The supplemental submissions, which apparently were lost or miss-filed by the Patent Office, are being resubmitted herewith and are discussed further below.

II. Background

On March 27, 2002, a decision dismissed the original petition filed on June 15, 2002 for failing to satisfy items (2) and (4).

On September 27, 2002 a renewed petition was submitted by facsimile in an attempt to satisfy the remaining 1.47(b) requirements. An assignment in French was submitted with the renewed petition along with a Declaration and Power of Attorney form signed on behalf of the non-signing inventor by a representative of the Assignee. Applicant submitted with the first Renewed Petition, a new translation (**See Exhibit A(3)(D)**) and paid the \$130 fee for the late filing of the translation. The Declaration and Power of Attorney form submitted with the Renewed Petition gave the undersigned, Michael P. Straub, Esq., the power to represent the Assignee as established by the submitted assignment document.

On October 8, 2002 Supplemental Papers To Renewed Petition Under 37 C.F.R. 1.47(b) Originally Filed September 27, 2002 Including Declaration Executed By the Non-Signing Inventor were submitted by Express Mail. A copy is attached hereto as **Exhibit A**. The supplemental submission included an executed Declaration **Exhibit A(1)** signed by the previously non-signing inventor and a copy of the First renewed Petition (**Exhibit A(3)**) submitted by Facsimile. Submission of the declaration should have rendered the need for the petition moot. A copy of a post card receipt, submitted herewith (**Exhibit B**) indicates that the Patent Office received this submission and accorded the submission a filing date of Oct. 08 2002.

On November 12, 2002 Second Supplemental Papers To Renenwed Petition Under 37 CFR 1.47(b) Originally Filed September 27, 2002 were submitted by Express Mail. A copy is attached hereto as **Exhibit C**. The submission included a translation (see **Exhibit C**) of the Patent Application Assignment Agreement previously submitted in French establishing the assignment of the above referenced application to Actaris. The second post card receipt (**Exhibit D**) submitted herewith indicates that the Patent Office received this submission and accorded the submission a filing date of 12 Nov. 2002.

II. The Petition Requirements Are Moot And Have Been Satisfied

1. The Petition Requirements Are Moot

Submission of the Declaration signed by the previously non-signing inventor (**Exhibit A(1)**) which was included with

the Second Supplement, and is resubmitted herewith (See Exhibit A(1)) renders the need for the Petition moot.

2. The Petition Requirement Were Satisfied

Items (4) and (5) were deemed not to be satisfied as a result of a failure to provide a translation of the French Language Assignment to Actaris SAS. The translation of the assignment (See Exhibit C) submitted with the Second Supplement overcomes the grounds for finding that Items (4) and (5) were not satisfied.

The Decision on the Renewed Petition states:

Petitioner has, now, satisfied requirement (2) under CFR 1.47(b) but requirements (4) and (5) are not satisfied because the declaration is now signed by Gerald Gallez, who has not shown that Actaris is now the current party of interest for the above application. The new declaration is signed by Gerard Gallez (the first declaration was signed by Mr. Henri Dupont on the behalf of the sole nonsigning inventor) on behalf of the sole nonsigning inventor Mr. Leleu but petitioner has not adequately established that Actaris SAS is the assignee. The agreement provided with the renewed petition establishing Schlumberger Industries S.A. transferred ownership rights in Application S.N. 09/914,512 to Actaris S.A.S. is in French and no English translation has been provided that would verify the transfer.

Regarding item (4), the new declaration provided has been executed by Mr. Gerald Gallez, President of Actaris SAS, stating that he is authorized to sign on behalf of the corporation for the non-signing sole inventor, Mr. Leleu; but, it has not been yet established that Actaris SAS is the assignee.

Regarding item (5), applicant has not submitted proof that applicant has sufficient proprietary interest in the application because the "Agreement Establishing Schlumberger Industries S.A. Transfer of Ownership Rights in Application S.N. 09/914,512 to Actaris S.A.S." is in French and no English translation was provided. Therefore, it is unclear if the agreement acknowledges ownership of the invention to Actaris S.A.S.

In the Second Supplement, Applicant included a translation of the French language assignment to Actaris SAS. Accordingly an English language translation of the assignment (**Exhibit C**) has been provided. **This translation overcomes the Examiner's reasons for finding that (4) and (5) were not satisfied and places the Petition in a condition to be granted.**

III. Translation and Payment of \$130 Surcharge

In the Conclusion, the Decision on the Renewed Petition states:

If reconsideration on the merits of this petition is desired ... A translation of the international application and the \$130.00 processing fee is required in response to the decision.

The Decision on the renewed Petition failed to address or discuss the certified translation (**See Appendix D of Exhibit A(3)**) that was submitted as an attachment to the previously submitted Renewed Petition. **The \$130 fee was paid at the time the Renewed Petition was filed.**

In view of the submission of a certified translation of the renewed petition (a copy of which is submitted again herewith as Appendix D of Exhibit A(3)), it is respectfully submitted that the requirement for submission of a translation of the application and payment of the \$130 fee has been satisfied and that the \$130 fee is no longer due since it has been paid.

Inasmuch as the applicants submit that this error was introduced through no fault of his own, the **applicants believe that NO fee is due.** However, if a fee is due, kindly charge the entire cost, as appropriate, to deposit account number 50-1049.

IV. Change of Correspondence Address

A new change of correspondence address is submitted as Exhibit E.

A change of correspondence address was previously submitted but was not entered because Michael Straub, the attorney submitting the change, was not of record in the application at the time of the original submission. At the present time Michael Straub is of record as a result of the submission of the Declaration and Power of Attorney form and the translation of the assignment (Exhibit C) which was included with the Renewed Petition (See Appendix C of Exhibit A(3)). Accordingly, the change of correspondence address submitted herewith should be entered.

In view of the above remarks, re-submission of the new translation, the Declarations and other evidence submitted herewith, it is respectfully requested that this renewed petition under 37 C.F.R. 1.47(b) be granted.

This Second Renewed Petition Under 37 C.F.R. 1.47(b) is believed to have been timely submitted in response to the Decision mailed February 13, 2003. However, in the event that an extension of time or any other fees are due in order to have this submission and the attached documents considered, such fees are authorized to be charged to Deposit Account Number 50-1049.

Respectfully submitted:

April 14, 2003


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EXPRESS MAIL CERTIFICATION

"Express Mail" mailing label number: EV040686539US
Date of deposit: April 14, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents, Washington, D.C. 20231.

Michael P. Straub
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Reg. No.